

CITY OF MUSKEGON

CITY COMMISSION MEETING

JANUARY 22, 2008

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, January 22, 2008.

Mayor Warmington opened the meeting with a prayer from Reverend Dennis Remenschneider from St. Paul's Episcopal Church after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Sue Wierengo, Steve Wisneski, Chris Carter, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Ann Marie Becker.

2008-10 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the January 2nd Organizational Meeting, January 7th Commission Worksession, and the January 8th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. SECOND READING: Amendment to the Zoning Ordinance – Remove Reference to Section 2308. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 1301 # 14, of article XIII (B-4, General Business Districts), Section 1400, # 13, of Article XIV, (I-1, Light Industrial Districts), and Section 1500, # 9, (I-2, General Industrial Districts), of Article XV, to remove the reference to Section 2308, (1)(f).

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning

Ordinance to remove the reference to Section 2308, (1)(f).

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their December 13, 2007 meeting. The vote was unanimous with J. Aslakson and B. Smith absent.

D. Restructure Fisherman's Landing Loan Terms. FINANCE

SUMMARY OF REQUEST: In 2004-05 the City agreed to loan to Fisherman's Landing, Inc. \$150,000 as matching funds for a state grant. The funds were used to construct a new restroom/shower/laundry facility at the site. Terms of the loan called for repayment in 15 equal principal payments at an annual interest rate of 7%. Subsequent to this loan, the City issued bonds for the new fire station and recreation projects (including reimbursement of funds loaned to Fisherman's Landing). The City's net interest cost for the bonds is 4.15%. Staff proposes reducing the interest rate on the remaining balance of the loan to the City's actual borrowing cost.

FINANCIAL IMPACT: The City will receive \$21,854 less interest from Fisherman's Landing over the remaining life of the loan. However, these funds will go towards maintenance and improvements at the City-owned facility. The Fisherman's Landing group has taken on significant new responsibilities (including paying peak-season electric bills and mowing) under the new operating agreement. These activities save the City considerable money and staff time.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the restructuring of the loan to Fisherman's Landing reducing the interest rate from 7% to 4.15%

E. WEMET Leased Vehicles. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting approval to utilize Criminal Forfeiture Funds to cover the costs of the leased WEMET vehicles for the period that coincides with the State of Michigan fiscal period (October, 2007 through September, 2008). The Ottawa County Fiscal Services Department serves as the fiscal agent and provides budget-related service to WEMET. The obligation for the vehicles for this period is \$24,760.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the agreement.

F. Purchase of Computer Equipment. PUBLIC SAFETY

SUMMARY OF REQUEST: Police Department staff request that the Commission approve the use of Criminal Forfeiture Funds to purchase new computer hardware. These computers will be utilized in the Detective Bureau. The current computers are approximately four years old and we are beginning to experience a number of malfunctions. We would like to replace 12 computers,

10 software licenses and a network storage device to increase our storage capability.

This bid was developed with the assistance of the Information Technologies Department.

FINANCIAL IMPACT: Cost for this package is \$17,870.78.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

G. Admiral Petroleum Request for an Encroachment Agreement.
ENGINEERING

SUMMARY OF REQUEST: Hopp Environmental, on behalf of Admiral Petroleum, is requesting your permission to install two horizontal monitoring wells and one vertical well in the easterly right-of-way of McIlwraith Street approximately 100' – 160' south of Laketon Avenue.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the encroachment agreement subject to the supplemental conditions and compliance with the necessary insurance requirements.

H. Consideration of Bids for City Hall Emergency Generator (B-235).
ENGINEERING

SUMMARY OF REQUEST: Award a contract for the placement of an emergency generator at City Hall to Ottawa Electric out of Grand Haven since they were the lowest responsible bidder with a bid price of \$135,922.

FINANCIAL IMPACT: \$135,922.

BUDGET ACTION REQUIRED: None at this time since \$150,000 was budgeted for this item in the 2007 budget.

STAFF RECOMMENDATION: Award the contract to Ottawa Electric.

I. Construction Engineering Services Agreement for Sherman/Henry Intersection Improvements. ENGINEERING

SUMMARY OF REQUEST: Authorize staff to enter into an engineering services agreement with Fleis & Vandenbrink Inc. out of Muskegon to perform the construction engineering services (inspection) on this federally funded project. Fleis & Vandenbrink's services are necessary due to lack of experienced staff's availability at the time of anticipated start of construction (April thru June).

FINANCIAL IMPACT: The charges will be based on Time & Material with a not to exceed fee of \$30,900.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with Fleis & Vandenbrink.

J. City - MDOT Agreement for Federal Money Loan to Reconstruct Clay Avenue, Third Street to Terrace Street. ENGINEERING

SUMMARY OF REQUEST: To approve the contract with MDOT for the reconstruction of Clay Avenue from Third Street to Terrace Street and to approve the resolution authorizing the Mayor and City Clerk to sign the contract for the federal funds loan from the state.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None at this time. The City's share of the cost will come out of the Major Street and water funds as shown in the 2008 budget.

STAFF RECOMMENDATION: Approve the contract and resolution and authorize the Mayor and Clerk to sign both.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Consent Agenda as read minus items C, K, and L.

ROLL VOTE: Ayes: Wierengo, Wisneski, Carter, Gawron, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

2008-11 ITEMS REMOVED FROM THE CONSENT AGENDA:

C. Amendment to the Zoning Ordinance – WM, Waterfront Marine Districts, Special Land Uses Permitted. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 1901 (Special Land Uses Permitted) of Article XIX (WM, Waterfront Marine Districts) to allow an additional special land use.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to allow an additional special land use in the WM, Waterfront Marine zoning district.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their January 10th meeting. The vote was unanimous with T. Michalski and B. Smith absent.

Motion by Commissioner Carter, second by Commissioner Wierengo to table the amendment to the Zoning Ordinance for WM, Waterfront Marine Districts, Special Land Uses Permitted to the February 12th City Commission Meeting.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington,

and Wierengo

Nays: None

MOTION PASSES

K. City - MDOT Agreement for the Reconstruction of Clay Avenue, Third Street to Terrace Street. ENGINEERING

SUMMARY OF REQUEST: To approve the contract with MDOT for the reconstruction of Clay Avenue between Third Street and Terrace Street and to approve the resolution authorizing the Mayor and City Clerk to sign the contract.

FINANCIAL IMPACT: MDOT's participation is limited to the federal funds of \$344,200. The estimated total construction cost is \$381,700.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Approve the contract and resolution and authorize the Mayor and Clerk to sign both.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the City – MDOT Agreement for the reconstruction of Clay Avenue, Third Street to Terrace Street.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

L. Resolution to Collect Taxes Levied in the Summer. TREASURER

SUMMARY OF REQUEST: To approve the resolution rescinding the previous resolution that declined to collect the State Education Tax in a summer levy. City staff was contacted by the Michigan Department of Treasury, Local Government Section, who indicated that the resolution needs to be approved in the month of January.

FINANCIAL IMPACT: To meet the 2008 fiscal year approved budget projection.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the resolution to collect taxes levied in the summer.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

2008-12 PUBLIC HEARINGS:

A. Spreading of the Special Assessment Roll for Creston Street, Laketon Avenue to Evanston Avenue. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the spreading of the special assessment for Creston Street from Laketon Avenue to Evanston Avenue, and to adopt the resolution confirming the special assessment roll.

FINANCIAL IMPACT: A total of \$30,254.66 would be spread against the ten parcels abutting the project.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To approve the special assessment roll and adopt the resolution.

The Public Hearing opened to hear and consider any comments from the public. No comments were made.

Motion by Commissioner Carter, second by Commissioner Shepherd to close the Public Hearing and approve the spreading of the Special Assessment Roll for Creston Street, Laketon Avenue to Evanston Avenue.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

B. Create Special Assessment District for Pine Street, Apple Avenue to Western Avenue. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment of the Pine Street, Apple Avenue to Western Avenue project, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To create the special assessment district and assign two City Commissioners to the Board of Assessors by adopting the resolution.

The Public Hearing opened to hear and consider any comments from the public. Comments were heard in opposition to the project from Chris Thorsen, 860 Pine Street (owner of Baker Auto Trim); Ken Appelt, 813 and 821 Pine Street; David Bolen, owner of building on the corner of Pine & Western – 750 Pine Street; and from Dennis Lohman, Northwestern Mill, 820 Pine Street.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to close the Public Hearing and create the Special Assessment District for Pine Street, Apple

Avenue to Western Avenue and appoint two City Commissioners to the Board of Assessors.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION PASSES

Mayor Warmington appointed Commissioner Shepherd and Vice Mayor Gawron to the Board of Assessors.

C. Create Special Assessment District for Vincent Drive/Park Drive, Barclay Street to North End. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment of the Vincent Drive/Park Drive, Barclay Street to North End project, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

The proposed special assessment district is a benefit based special assessment since, according to the City's Assessor, the benefit received is equal among all 35 properties abutting the street and 2300 Park Drive.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To create the special assessment district and assign two City Commissioners to the Board of Assessors by adopting the resolution.

The Public Hearing opened to hear and consider any comments from the public. Comments were heard in opposition of the project from Sammie Coleman, 2368 Vincent and 2350 Park; Tom Johnson, 2361 Park; Mary and Robert Vanderwest, 2355 Vincent; David Bialik, 2330 Vincent; Dennis Kurn, 2267 Vincent; Thomas and Susan Kent, 2264 Vincent and 2261 Barclay.

Motion by Commissioner Carter, second by Commissioner Spataro to close the Public Hearing.

ROLL VOTE: Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

Motion by Commissioner Spataro, second by Commissioner Carter to take no action on this project and not create the Special Assessment District for Vincent and Park Drive, Barclay Street to North End.

ROLL VOTE: Ayes: Wierengo, Wisneski, Carter, Gawron, Shepherd, Spataro, and

Warmington

Nays: None

MOTION PASSES

D. Revocation of IFT - Office Machines. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, the City of Muskegon requests that the Industrial Facilities Tax Exemption (IFT) for the parcel at 2185 Roberts Street be revoked. The former company at this location, Printing Source, sold the building and the IFT was never transferred to the new owner. The new company, Office Machines, is not eligible for an IFT because they are not involved in manufacturing.

FINANCIAL IMPACT: The City will now charge full taxes on the parcel at 2185 Roberts Street.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Staff recommends revocation of the IFT.

The Public Hearing opened to hear and consider any comments from the public. No comments were made.

Motion by Commissioner Carter, second by Vice Mayor Gawron to close the Public Hearing and revoke the Industrial Facilities Tax Exemption for Office Machines.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Warmington, and Wierengo

Nays: None

Absent: Spataro (stepped out of the room)

MOTION PASSES

2008-13 NEW BUSINESS:

A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following: PUBLIC SAFETY

1519 Terrace (Shed/Shanties) – Area 13

499 W. Muskegon – Area 10

1553 Pine – Area 13

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized

and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Commissioner Shepherd to concur with the Housing Board of Appeals notice and order to demolish 1519 Terrace (Shed/Shanties), 499 W. Muskegon, and 1553 Pine.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission Meeting adjourned at 6:45 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk